

**AMENDMENT TO H.R. 5658, AS REPORTED
OFFERED BY MR. TIAHRT OF KANSAS**

Page 465, after line 6, add the following new section:

1 SEC. 1071. FOREIGN CORRUPT PRACTICES ACT.

2 (a) CONDITION FOR PROSPECTIVE AWARD OF CON-
3 TRACT.—

4 (1) IN GENERAL.—As part of the acquisition
5 process by the Department of Defense for the award
6 of a prime contract and a second-tier or higher sub-
7 contract for a major defense acquisition program,
8 the Department of Defense and the source selection
9 authority shall require that any contractor or sub-
10 contractor described in paragraph (2) that is not al-
11 ready covered by the Foreign Corrupt Practices Act
12 shall be required, as a condition of the contract, to
13 comply with such Act.

14 (2) CONTRACTOR AND SUBCONTRACTORS DE-
15 **SCRIBED.—**A contractor or subcontractor described
16 in this paragraph is any of the following:

17 (A) A prospective contractor (foreign
18 or domestic) or any subsidiary or affiliate
19 of the contractor.

1 (B) A prospective subcontractor at the
2 second tier or higher (foreign or domestic)
3 to be used by the prospective contractor to
4 perform the contract, or any subsidiary or
5 affiliate of the subcontractor.

6 (b) COMPLIANCE PROGRAM.—

7 (1) IN GENERAL.—With respect to compliance
8 with the Foreign Corrupt Practices Act, the Sec-
9 retary of Defense shall require that all contractors
10 and subcontractors described in this section have a
11 compliance program and certify in writing that they
12 have completed an audit of that compliance pro-
13 gram.

14 (2) DEBARMENT.—

15 (A) IN GENERAL.—Any contractor or sub-
16 contractor who violates the Foreign Corrupt
17 Practices Act or any similar applicable laws in
18 foreign countries shall be debarred from con-
19 tracting with the Department of Defense.

20 (B) PERIOD OF DEBARMENT.—The period
21 of debarment under subparagraph (A) shall be
22 at least 3 years.

23 (c) NATIONAL SECURITY WAIVER AUTHORITY.—

24 (1) IN GENERAL.—The Secretary of Defense
25 may waive the applicability of subsections (a) and

1 (b) in specific instances if the Secretary determines
2 that the waiver is necessary in the national security
3 interests of the United States.

4 (2) NON-DELEGATION.—The Secretary of De-
5 fense may not delegate or designate to any other of-
6 ficer, employee, or person any determination under
7 paragraph (1).

8 (3) NOTIFICATION.—Upon issuing a waiver
9 under paragraph (1), the Secretary of Defense shall
10 notify the appropriate Congressional committees in
11 writing not later than 30 days after issuing such
12 waiver.

13 (4) DEFINITION.—In this subsection, the term
14 “appropriate Congressional committees” means—

15 (A) the Committee on Armed Services, the
16 Committee on Appropriations, and the Perma-
17 nent Select Committee on Intelligence of the
18 House of Representatives; and

19 (B) the Committee on Armed Services, the
20 Committee on Appropriations, and the Select
21 Committee on Intelligence of the Senate.

22 (d) DEFINITION.—In this section, the term “Foreign
23 Corrupt Practices Act” means—

24 (1) section 30A of the Securities Exchange Act
25 of 1934 (15 U.S.C. 78dd-1); and

1 (2) sections 104 and 104A of the Foreign Cor-
2 rupt Practices Act of 1977 (15 U.S.C. 78dd-2).

